

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**JOHN F. THRELKELD and
MARGARET L. THRELKELD,**

Petitioners,

v.

Misc. No. 2:12-mc-00179

UNITED STATES,

Respondent.

PROPOSED FINDINGS AND RECOMMENDATION

Pending before the court is the Petition to Quash Third Party Summons (ECF No. 1) and United States' Motion to Dismiss the Petition to Quash Summons (ECF No. 3). This matter is assigned to the Honorable Thomas E. Johnston, United States District Judge and, by Standing Order, it is referred to the undersigned United States Magistrate Judge for submission of proposed findings of fact and a recommendation for disposition, pursuant to 28 U.S.C. §636(b)(1)(B).

A status conference was conducted in this matter on January 6, 2015. At that time, the parties agreed to the dismissal of the Petition to Quash Third Party Summons (ECF No. 1) due to the filing of a Complaint for Federal Taxes, styled *United States of America v. John F. Threlkeld*, Civil Action No. 2:14-cv-22847, filed in the United States District Court for the Southern District of West Virginia.

Accordingly, the undersigned proposes that the presiding District Judge **FIND** that the Petition to Quash Third Party Summons (ECF No. 1) is now moot in light of the agreement of the parties to the dismissal of the Petition due to the filing of the

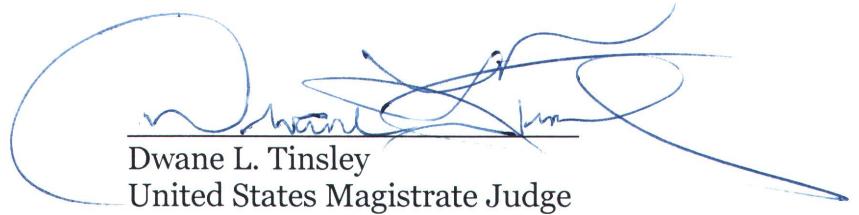
Complaint for Federal Taxes, styled *United States of America v. John F. Threlkeld*, Civil Action No. 2:14-cv-22847, filed in the United States District Court for the Southern District of West Virginia. Accordingly, it is respectfully **RECOMMENDED** that the presiding District Judge **DENY AS MOOT** the Petition to Quash Third Party Summons (ECF No. 1) and **DISMISS** this civil action from the docket of the court.

The parties are notified that this Proposed Findings and Recommendation is hereby **FILED**, and a copy will be submitted to the Honorable Thomas E. Johnston, United States District Judge. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), Rules 6(d) and 72(b), Federal Rules of Civil Procedure, and Rules 1(b) and 8(b) of the Rules Governing Proceedings in the United States District Courts Under Section 2254 of Title 8, United States Code, the parties shall have fourteen days (filing of objections) and then three days (service/mailing) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this Court, specific written objections, identifying the portions of the Proposed findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted by the presiding District Judge for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Copies of such objections shall be served on the opposing party and Judge Johnston.

The Clerk is directed to file this Proposed Findings and Recommendation and to transmit a copy to counsel of record and John F. Threlkeld, 1070 Maple Run, Tariff, West Virginia, 25259-7420.

January 9, 2015.



Dwane L. Tinsley
United States Magistrate Judge